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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

JEREMIAH & SARAH KNAPP,

Plaintiffs,

vs.

**WESTERN MERCANTILE AGENCY,
INC.,**

Defendant.

Case No.:

11-6230-TC

COMPLAINT;

**FAIR DEBT COLLECTION PRACTICES
ACT (15 USC § 1692a, *et seq.*);**

DEMAND FOR JURY TRIAL

I. INTRODUCTION

1. This is an action for damages brought by a pair of consumers for Defendant's violations of the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA").

II. JURISDICTION

2. Plaintiffs' claim for violations of the FDCPA arises under 15 U.S.C. § 1692k(d), and therefore involves a "federal question" pursuant to 28 USC § 1331.

III. PARTIES

3. Plaintiffs, Jeremiah and Sarah Knapp ("Plaintiffs"), are each a natural

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person residing in Coos County, Oregon.

4. Defendant, Western Mercantile Agency, Inc., (“Defendant”) is a corporation engaged in the business of collecting debts by use of the mails and telephone. Defendant regularly attempts to collect debts alleged due another.

IV. FACTUAL ALLEGATIONS

5. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6).

6. Plaintiffs are each a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a(3).

7. All activities of Defendant set out herein were undertaken in connection with the collection of a “debt,” as defined by 15 USC § 1692a(5).

8. Within the last year, Defendant took multiple actions in an attempt to collect a debt from Plaintiffs. Defendant’s conduct violated the FDCPA in multiple ways, including the following.

9. Without having received the prior consent of Plaintiff or the express permission of a court of competent jurisdiction, and without it being necessary to effect a post-judgment remedy, communicating with a third party other than in the manner prescribed by 15 USC § 1692b. Defendant sent a letter dated April 20, 2011, to Mr. and Mrs. James Frite of Carson, California. The letter stated that Defendant believed that the addressees were relatives of Plaintiffs, that Plaintiffs owed a debt, and the letter asked Mr. and Mrs. Frite for location information for Plaintiffs. This letter violated several

provisions of 1692b, which regulates third-party contact (§ 1692c(b) & 1692b).

10. Threatening to take an action against Plaintiff that cannot be legally taken or that was not actually intended to be taken, including sending a purported wage garnishment to Plaintiff's employer, where Defendant does not have a valid judgment. The documents states that the order is issued in accordance with Oregon State Law and also falsely claims that the garnishment order was issued pursuant to an agreement between Plaintiff and Defendant, both of which are false statements. The letter also informed Plaintiff's employer of the existence of the debt, which violates § 1692c(b) (§ 1692e(5)).

11. As a result of the aforementioned violations, Plaintiffs suffered and continue to suffer injuries to Plaintiffs' feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.

12. Defendant intended to cause, by means of the actions detailed above, injuries to Plaintiffs' feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.

13. Defendant's actions, detailed above, were undertaken with extraordinary disregard of, or indifference to, known or highly probable risks to purported debtors.

14. To the extent Defendant's actions, detailed in the paragraphs above, were carried out by an employee of Defendant, that employee was acting within the scope of his or her employment.

COUNT I: VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT

15. Plaintiffs reincorporate by reference all of the preceding paragraphs.

16. The preceding paragraphs state a *prima facie* case for Plaintiffs and against Defendant for violations of the FDCPA, §§ 1692b, 1692c, 1692e.

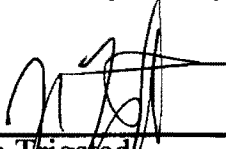
PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages pursuant to 15 USC 1692k;
- C. Statutory damages pursuant to 15 U.S.C. § 1692k;
- D. Costs, disbursements and reasonable attorney's fees for all successful claims, and any unsuccessful claims arising out of the same transaction or occurrence as the successful claims, pursuant to 15 U.S.C. § 1692k; and,
- E. For such other and further relief as may be just and proper.

PLAINTIFFS HEREBY REQUEST A TRIAL BY JURY

Dated this 14th day of July, 2011.

By: 
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